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# Legalizing And Licensing Gambling

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# INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE ELECTORS

The Attorney General has prepared the following title and summary of the chief purpose and points of the said proposed measure, which is proposed for adoption as an amendment to the constitution of the State of California, as follows:

**LEGALIZING AND LICENSING GAMBLING. INITIATIVE CONSTITUTIONAL AMENDMENT.**  
Adds Article XXXII to Constitution. Permits wagering and gambling in licensed establishments. Creates five-man state Commission empowered to license and supervise pari-mutuel betting at tracks, off-track bookmaking, wagering on athletic and skill contests, and gambling games and devices. Authorizes Commission to operate or license gaming, lotteries, etc. Imposes percentage taxes on money wagered, revenue to be deposited in pension and welfare fund for payment of aged and blind aid allowances. Names first members of Commission, future members to be elected. Continues licensing authority of Horse Racing Board.

State of California,  
County (or City and County) of \_\_\_\_\_ } ss.

*To the Secretary of State of the State of California:*

We, the undersigned, registered qualified electors of the State of California, residents of \_\_\_\_\_ County (or City and County) hereby present to the Secretary of State this petition and hereby propose that the constitution of the State of California be amended by adding a new Article to be numbered Article XXXII thereof, to read as hereinafter set forth in full, and petition that the same be submitted to the electors of the State of California for their adoption or rejection at the next succeeding general election or as provided by law. The proposed constitutional amendment reads as follows:

## **PENSION AND WELFARE FUNDING ACT**

### **ARTICLE XXXII**

Sec. 1. The purpose of this article is to raise money to pay the cost of retirement pay, old age and blind pensions and welfare, and to relieve the taxpayer of all or a part of the ever-increasing burden thereof, by licensing, taxing, regulating and rigidly controlling off-track bookmaking and gambling.

This article shall be cited as the Pension and Welfare Funding Act.

Sec. 2. All money required to pay all old age and blind pensions, aid or security allowances and the administration thereof provided by law or that may be provided hereafter shall be the money which shall be collected by the pension and welfare funding commission as hereinafter provided and placed in the pension and welfare fund in the state treasury. Out of the pension and welfare fund the treasurer shall once each month make available to that person or officer of the state who is or may be charged with the duty of paying old age and blind pensions, aid or security allowances, all money required by such persons or officer to make all of the above mentioned payments and to pay the costs of the administration thereof. Should the amounts herein provided to be collected and placed in the pension and welfare fund exceed the amounts required to make all of the above mentioned payments, the cost of administering said payments, and the costs of conducting the affairs of the pension and welfare funding commission as hereinafter provided, the excess shall be allowed to accumulate as the pension and welfare fund reserve fund. Should the money in the pension and welfare fund upon the first day of any month be less than a total sufficient to make all of the above mentioned payments, then such deficit amounts, which when added to the money on hand in the pension and welfare fund will be sufficient to make all of the above mentioned payments, shall be paid out of the general fund in the state treasury and such amounts are hereby appropriated; any and all deficit amounts so appropriated out of the general fund shall be immediately repaid to the general fund out of the pension and welfare

shall be for the purpose of this article and for no other purpose; and all such fees and taxes shall be collected by the pension and welfare funding commission and placed in the pension and welfare fund in the state treasury.

Sec. 4. There is hereby created the Pension and Welfare Funding Commission herein designated the "commission".

The commission consists of five commissioners; whose offices shall be non-partisan offices; whose terms of office shall be six years; who shall be elected by the qualified electors of the state; who are hereby directed and empowered to carry out fully and effectually all of the purposes and provisions of this article.

The first five commissioners shall be Nathan T. Porter, who resides at 1429 West 81st St., Los Angeles; and Cliff Kallam, who resides at Cupertino, Santa Clara County; whose terms of office shall commence at the date of the adoption of this article and continue until the general election due to be held in November 1954 or until their successors have been elected and qualified; and Glen S. Wilson, who resides at 7341 Romaine Ave., Los Angeles; Willis Allen, who resides at 634 North Cherokee Ave., Los Angeles; and Roy G. Owens, who resides at 716 1/2 North Kingsley Ave., Los Angeles; whose terms of office shall commence at the date of the adoption of this article and continue until the general election due to be held in November 1956 or until their successors have been elected and qualified. At each general election thereafter commissioners shall be elected to succeed the commissioners whose terms expire.

The procedure for election of commissioners shall be the same as for other non-partisan state officers and commissioners shall be subject to recall the same as other elective officers under the constitution. Vacancies shall be filled by qualified persons appointed by the commission for the unexpired term. Three commissioners shall constitute a quorum for the transaction of business. Commissioners shall each receive a salary of \$10,000 per annum and in addition shall receive necessary travel ex-

The secretary may, under the direction of the commission, issue subpoenas for the attendance of witnesses before the commission with the same effect as if they were issued under or in accordance with provisions of Part 4, Title 3, Chapter 2 of the Code of Civil Procedure, and may under the direction of the commission administer oaths in all matters pertaining to the duties of his office or connected with the administration of the affairs of the commission. Disobedience of a subpoena issued by the secretary and false swearing before the secretary shall be attended by the same consequences and shall be subject to the same penalties as if such disobedience or false swearing occurred in an action in the superior court.

Sec. 6. All money required to pay the whole cost of conducting the affairs of the commission including the salaries of the commissioners, secretary, and the other employees of the commission, and all other necessary expenses incurred or authorized by the commission is hereby appropriated and shall first once each month by the treasurer and out of the pension and welfare fund be made available to the commission upon the warrant of the secretary of the commission and the certification of the chairman of the commission.

The commission is authorized: to establish a principal office and such branch offices as efficiency and the good judgment of the commission may determine; to select and to hire and to discharge employees, officers, deputies, counsel, and expert aid or agents; define their duties; fix their compensation; require bonds of them and fix the penalty thereof; adopt rules and regulations. The Administrative Procedure Act as now contained in the Government Code of the State of California is hereby made a part of the rules and regulations of the Commission, subject however, to such changes or modifications thereof and additions thereto as the Commission may make therein for the use of the Commission. The total costs of administration of the commission shall not exceed 5% of the amount of the license fees and taxes herein prescribed to be collected by the commission.

None of the fees or taxes collected by the commission or that by this article are prescribed to be collected, shall ever be placed in any account or fund other than the pension and welfare fund.

Sec. 7. The amount of money that shall by the commission be estimated as necessary to pay the preliminary and organizational costs of placing in full and complete operation all provisions of this article that are directed to be administered by the commission, and in any event not to exceed the sum \$6,000,000, is hereby appropriated and the state treasurer is hereby directed to pay and transfer such sum or sums of money out of the general fund to the commission upon demand of the commission and at a date or dates which the commission shall determine, but within the two year period next subsequent to the date of the adoption of this article said sum or sums shall be repaid and transferred out of the pension and welfare reserve fund to the general fund of the state.

On or before the 20th day of each month, and at any and all events not later than the 30th day of each month, the exact operating statements of the commission, as at the close of business on the last business day of the preceding month, shall be published by the commission. The governor shall name a person or state department to examine and/or audit the books and accounts of the commission, without prior notice, four times a year.

Sec. 8. Except for such horse race wagering and racing establishments as are licensed by The California Horse Racing Board under the California Horse Racing Law as it stood at the first day of January 1949; the licensing of, and the jurisdiction and supervision over, establishments, or places of business and over all persons and things (a) having to do with wagering on the results of races, games or other contests or trials of skill, speed, or endurance of man or beast (b) having to do with wagering or play for money on the results of games of chance or skill of any sort or description (c) having to do with the ownership, possession or operation of any game, of any sort or description, upon the operation or result of which or by means of which there is wagering, gaming, or play for money or other representative of value, are vested in the commission. The commission shall, however, have power to install and maintain or cause to be installed

on horse races within enclosures where said horse races are held under license issued by the California Horse Racing Law as it stood at the first day of January 1949, shall be subject to the license fees or taxes that are prescribed by this article and payable into the pension and welfare fund.

All pari-mutuel wagering licensed by the California Horse Racing Board and all pari-mutuel or other wagering licensed by the commission shall be carried on in compliance with rules and regulations which the commission shall prescribe and be subject to examination and audit by the commission.

The commission shall cause all pari-mutuel wagers on races, or events occurring outside this state, or on unlicensed events occurring in this state, to be computed by a central totalizator licensee licensed by the commission to operate for that purpose only, to the end that the combined total of all such wagers made in this state on any such race or event shall determine the awards that shall be paid to winning wagerers. The central totalizator licensee shall operate solely as a "totalizator service" and pari-mutuel licensees shall pay the central totalizator licensee one-half per cent of all money so wagered.

Every license issued by the commission shall be either a class "A", "B", "C", "D", or such other class license as the commission may deem applicable. A licensee shall not be licensed to operate in any other than a location where the carrying on of other forms of business is lawful, nor in any place that is less than 600 feet removed from any church or school.

Sec. 9. A class "A" license shall entitle the licensee (a) to conduct races, or other events approved by the commission, at a place or enclosure which must comply with prevailing sanitary and safety laws and must be approved by the commission; (b) to conduct pari-mutuel wagering on the results of races or events held within said enclosures; said wagering shall be only by the use of ticket vending machines and a totalizator or calculating equipment approved by the commission; no other wagering shall be carried on or permitted within said enclosure. From each dollar wagered under a class "A" license, the licensee shall deduct 13 cents; of each 13 cents so deducted, the licensee shall retain 8 cents, and 5 cents shall be pension tax which said licensee shall pay to the commission.

A class "B" license shall entitle the licensee to carry on pari-mutuel type wagering at a place other than where races or other events are conducted and shall require the licensee to use ticket vending machines, accounting systems and equipment approved by the commission. From each dollar wagered under class "B" license, the licensee shall deduct 13 cents; of each 13 cents so deducted the licensee shall retain 5 cents, 7 1/2 cents shall be pension tax which the licensee shall pay to the commission, and 1/2 cent shall be paid by the licensee to the establishment which conducted the race or event, or if the event occurred outside this state, to the central totalizator licensee.

A class "C" license shall entitle the licensee to carry on other than pari-mutuel wagering, at a place other than where races or other events are conducted, and require the licensee to use tickets, ticket and money accounting systems and equipment required or approved by the commission. From each dollar wagered under a class "C" license, the licensee shall deduct 7 1/2 cents which shall be pension tax which the licensee shall pay to the commission, and in addition out of every dollar wagered on races or events occurring in this state the licensee shall deduct and pay 1/2 cent to the licensee who conducted the race or event.

The total number of class "B" and "C" licenses issued shall include a minimum of one in each county, and for the whole state, be not more than the proportion of 6 to each assembly district; provided except; the commission may in its discretion issue special resort licenses for periods not exceeding 6 consecutive months.

A class "D" license shall be for not less than 100 games; shall specify for each game the percentage of the money or value played which said game shall return to the players thereof; shall entitle the licensee to install or expose said game for play in places of business.

shall indicate the percentage of coins to be retained and the percentage to be returned to the players and be affixed permanently on each game. A record by identification number and location of each game possessed shall be maintained by the licensee, and an exact copy thereof shall be supplied to the commission by the licensee.

A class "D" licensee shall pay a fee of \$5 each year for each game possessed; in addition, at the pleasure of the commission, each game shall be opened, the number of coins deposited in the coin receptacle checked against the reading of the coin meter and verified, and the coins removed and reported; and of the money so removed, one third shall be retained by the licensee, one third shall be paid by the licensee to the establishment where the game is located; and one third shall be pension tax which shall be paid by the licensee to the commission.

Sec. 10. Each application for a license shall show upon the sworn statement of the applicant; applicant's full name, and residence address; that applicant has been an elector of this state for two years next preceding the date of application; in the case of co-partnership or association, the full names and residence address of each of the partners or associates and that each has been an elector of this state for two years next preceding the date of application; in the case of a corporation that the corporation is chartered in this state, the full names and residence addresses of the principal officers and that the president or general manager has been an elector of this state for two years next preceding the date of application. In the case of a co-partnership or association the application shall be verified by each of the co-partners or associates; in the case of a corporation, by an officer and under the seal of the corporation..

A license shall specify the person, association or corporation to whom issued; shall identify the location in which the licensee may carry on, or operate the wagering, game or games, for which the license is issued. No license shall issue until the licensee shall have deposited with the commission a surety bond in the penal sum of \$10,000 or a sum which the commission shall estimate as sufficient to guarantee the payment of wagers and taxes.

A license shall not be transferable; shall not be for any wagering, game, or thing except the identical one or ones specified in the license; shall not be valid except in the place, enclosure or room described in the license. If a licensee shall, by sale or otherwise, transfer his establishment or equipment, then, upon showing compliance with all requirements for license, his successor shall be licensed; provided except; no person or corporation shall be licensed to operate in more than 3 locations during the same period of time.

Every license shall be posted by the licensee in a conspicuous place in the room or enclosure where the wagering or game is licensed to be carried on and where any game is exposed for play.

No other license or permit and no excise tax, fee or other tax condition except as provided by this article shall be required, levied or collected, by this state or by any political subdivision, district, board, bureau, commission or committee of the state or by any county, city and county or by any political subdivision, district, board, bureau, commission or committee of any county, city and county or city of the state, from the licensee licensed by the commission under this article.

All licenses are subject to suspension or revocation by the commission in any case where the commission has reason to believe that any condition of its license has not been complied with or that any federal law, or any law of this state has been violated. If any license is suspended or revoked, the commission shall cause a full and complete statement of its reasons therefor to be entered in its minute book and such statement shall be public information. The action of the commission in revoking or suspending a license is final, except that the propriety of such action is subject to review, upon questions of law only, by the superior court of the county within which such license was to be exercised. In such appeal the court shall hear and determine the matter de novo, not more than 10 days after the filing of the appeal. The action of the commission shall stand unless and until reversed by the court.

Sec. 12. The commission shall require of every licensee that each of his employees and/or agents shall at all times carry on his person an identification permit or badge which the commission shall issue pursuant to such rules and regulations as the commission may adopt; and each permit or badge shall be numbered and contain the full name and residence address of said employee or agent; no permit or badge shall issue to or for any such employee or agent who is not a qualified voter in this state.

Sec. 13. It shall be a violation for any licensee or any employee or agent of said licensee to solicit, or knowingly permit any person under 21 years of age to loiter about or to wager, or to operate or play any game or device licensed by the commission. The commission shall, upon proof of such violation, give written warning to said licensee, and if such violation be repeated the commission shall, suspend for three months, or in its discretion, revoke the license.

Any person under 21 years of age who shall loiter about the premises of a licensee, or wager, or play any game or device exposed for play by any licensee shall be subject to removal from such premises and be guilty of a misdemeanor.

Any person, either as owner, lessee, agent, employer or employee, whether for gain or hire or not, who shall carry on, or cause or permit to be operated, any establishment for, or any form of gaming, wagering, raffle, lottery or play for money or other representative of value; who shall operate or cause or permit to be operated any instrument, device, machine, wheel, tote board, equipment, furniture, ticket, or thing having to do with wagering, gaming, or a raffle or lottery or play for money or other representative of value; unless such person or establishment, or unless such wagering, gaming, or thing, or play for money or other representative of value shall first be licensed by the commission; is guilty of a felony and punishable by imprisonment in a state prison for not less than one nor more than five years.

Until serially numbered tickets, vending machines, totalizers, computing equipment and other suitable mechanical or other equipment, specified or contemplated by this article can be procured and installed, the commission may issue temporary licenses, subject to fees, rules and regulations which the commission shall prescribe.

Sec. 14. This Article is self-executing. If any section, subsection, sentence, clause or phrase of the constitution is in conflict with any of the provisions of this article, such section, subsection, sentence, clause or phrase is to the extent of such conflict hereby repealed. Words used in this act in the present tense include the future as well as the present. Words used in the masculine gender include the feminine and the neuter, and the neuter the masculine and the feminine. The singular includes the plural and the plural the singular; writing includes printing, engraving, lithographing, typewriting and planographing. Oath includes affirmation; the word county includes city and county, and territory includes district. In the event that any decision or order of any court shall hold invalid or unconstitutional any provision, section, subsection, sentence, clause or phrase of this article, or the application thereof to any person or circumstance, such decision or order shall not affect the validity of the remaining portion of this article and the applications of such provisions to other persons or circumstances shall not be affected thereby. It is expressly provided that it is the distinct intention of the people and the voters of the State of California, in naming herein the first five members of the Pension and Welfare Funding Commission, to make hereby an exception of this Pension and Welfare Funding Act from the application to and the effect thereon of any constitutional amendment or court ruling which might be adopted or made prior to the adoption of this Pension and Welfare Funding Act which would make or purport to make it unconstitutional for this Pension and Welfare Funding Act to name any individual or individuals by name or names to hold the office or offices of member of the Pension and Welfare Funding Commission; and if by any chance or for any reason or by any means it shall become or be declared unconstitutional for the members of the Pension and Welfare Funding Commission to be